



CNR: KAHC010051812019

NC: 2026:KHC:53021-DB
CRL.A No. 347 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.347 OF 2019

BETWEEN:

SRI SIDDASHETTY
S/O. NANJASHETTY
AGED ABOUT 60 YEARS
R/O. KUPPAGODU VILLAGE
AREHALLY HOBLI
BELURU TALUK
HASSAN DISTRICT

...APPELLANT

(BY SRI SUYOG HERELE E., ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY AREHALLY POLICE
BELUR CIRCLE, HASSAN DISTRICT
REPT. BY THE S.P.P.
AT HIGH COURT OF KARNATAKA
BENGALURU-560 001

...RESPONDENT

(BY SMT. SOWMYA R., H.C.G.P.)

THIS CRL.A. IS FILED U/S.374(2) OF CR.P.C., BY THE
ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE
IMPUGNED JUDGMENT AND SENTENCE DATED 21.12.2018,
PASSED BY THE PRINCIPAL SESSIONS JUDGE AT HASSAN IN

Digitally signed
by
SHARADAVANI
B
Location: HIGH
COURT OF
KARNATAKA





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S.C.NO.258/2013, CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 OF IPC.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

The accused has preferred this appeal against the judgment and order dated 21.12.2018 passed by the Court of the Principal Sessions Judge at Hassan, convicting and sentencing him for the offence punishable under Section 302 IPC.

2. The learned Sessions Judge has sentenced the accused to undergo imprisonment for life and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo further imprisonment of 6 months.

3. Heard the learned counsel Sri. Suyog Herele E, for the appellant and Smt. Sowmya R, learned HCGP for



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the State and perused the evidence and material on record.

4. As per prosecution, the accused has intentionally picked up a quarrel with the deceased Subbashetty, on 07.08.2013 at about 04.30 p.m., at Kuppagodu Village, Arehalli Hobli, in connection with diverting the water to the land of the deceased and assaulted him with a spade on his head and committed his murder and thereby committed an offence punishable under Section 302 of IPC.

5. The law was set into motion by Praveen Kumar, son of the deceased. As per the complaint averments, the deceased had owned a land measuring about 0.39 guntas in Sy. No.23 of Kuppagodu Village. On 07.08.2013, the deceased, the complainant, complainant's wife and mother were working in the said land. At about 04.30 p.m., the accused who was working in his land situated adjacent to the land of the deceased, observed the deceased diverting



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the water from the stream, to his land. Immediately, he went near the deceased and questioned him as to why he had diverted the water. When the deceased told him that he can leave water to his land later, the accused tried to remove the bund. When the deceased told him not to remove the bund, the accused assaulted on his head with a spade, due to which the deceased collapsed. He was taken to the Government Hospital, Beluru, from there, he was referred to Hassan Government Hospital. However, on the way to the said Hospital, he died at about 05.45 p.m.

6. The learned counsel for the appellant contended that the deceased has sustained injuries on his head on account of a fall on a big stone which was lying near the spot and not on account of any assault by the accused. He contended that even in the spot sketch and Ex.D1-photograph, a big stone is seen near the spot. He further contended that even the doctor who conducted the Post Mortem examination has admitted that the injuries could be caused if a person falls on a big stone, seen in Ex.D1.



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7. The Learned counsel for the appellant further contended that even accepting the case of the prosecution in its entirety, the offence committed by the accused would not fall under the definition of murder. On the other hand, the incident has taken place in a sudden quarrel and without premeditation and according to the prosecution witnesses, the accused has given only one blow. He therefore contended that the trial Court was not right in convicting the accused for the offence punishable under Section 302 IPC.

8. Per contra, the learned HCGP contended that PWs.1 to 3 are the eyewitnesses to the incident and they have categorically stated that the accused has assaulted on the head of the deceased with a spade, after picking up quarrel with him and the evidence of the said witnesses is further corroborated by the evidence of PWs.4 and 5. She contended that the spade-MO.1 was seized from the spot and bloodstained clothes of the accused were also recovered and the bloodstains found on the said clothes



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matched with the bloodstains found on the clothes of the deceased. She therefore contended that, in view of the material on record, the trial Court has rightly convicted the accused for the offences charged against him.

9. The complainant, son of the deceased is an eyewitness to the incident. In the complaint-Ex.P1, he has narrated as to how the incident took place. He has also stated that at the time of incident, his wife and mother were also present in the land. Complainant is examined as PW.1, his wife and mother are examined as PWs.2 and 3 respectively. PW.4 is the younger brother of the deceased and PW.5 is another relative of the deceased. They have come to the spot immediately after they heard the deceased screaming. PWs.1 to 3 have consistently stated that the accused has assaulted the deceased on his head with a spade. Their evidence is corroborated by the evidence of PWs.4 and 5. The deceased was shifted to Beluru Government Hospital, wherein he was given treatment and then referred to Government Hospital,



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Hassan. However, on the way to the Hospital, he died. Therefore, he was brought back to Beluru Hospital wherein PW.10- the doctor conducted the autopsy. Ex.P5 is the post mortem report. PW.10 has noticed the following external injuries on the dead body:

- a) 'L' shaped sutured wound 1x4cm over the right side of the forehead;
- b) a lacerated wound 1cm over the centre of the forehead;
- c) a lacerated sutured wound about 1cm over the left side of the face; and
- d) a lacerated wound 1cm over the bregma.

10. *A multiple displaced fractured fragments with a haematoma and a herniation of brain tissue measuring 12x10 cms were noticed, on dissection. The said injury is the internal injury sustained by the deceased. PW.10 has opined that the death is due to hemorrhagic shock as a result of head injury resulting in intracerebral, intracranial hemorrhage with herniation of brain tissue.*

11. As could be seen from the evidence of the eyewitnesses, the accused has given only one blow on the



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head of the deceased. They have not stated that after giving the said blow, the accused had tried to assault the deceased or he tried to assault the deceased even after he fell down. In view of the evidence of the eyewitnesses, the contention of the learned counsel for the appellant that the deceased sustained head injuries on account of a fall on the big stone which was lying at the spot, cannot be accepted. Though there is a mention of a big stone near the spot, no bloodstains were found on the said stone. On the other hand, the spade which was seized from the spot and sent for FSL examination was stained with blood. After the arrest of the accused, his bloodstained clothes were also seized. The bloodstains found on the clothes, spade and the clothes of the deceased were all stained with the 'O' Group blood.

12. A perusal of the complaint averments reveal that on 07.08.2013 at about 04.30 p.m., the accused and the deceased were working in their respective lands. Noticing the deceased diverting the water from the stream



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to his land, accused went and questioned him. Thereafter, he tried to remove the bund, which was objected to by the deceased. At that time, the accused who was holding the spade in his hand, gave one blow on the head of the deceased.

13. PWs.1 to 3, the eyewitnesses have consistently stated that there was a quarrel between the deceased and the accused in respect of releasing of water, which indicates that the incident was not premeditated. On the other hand, seeing the deceased diverting the water, the accused went and questioned him and at that time, a quarrel took place between them. PW.1 in his cross-examination has admitted that about 15 days prior to the date of incident, they had planted paddy seeds and even the accused had planted paddy seeds and there was scarcity of rainfall and need for water. As already discussed, the incident is not premeditated, but took place in a sudden quarrel, wherein the accused gave one blow



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with MO.1 on the head of the deceased, which proved fatal.

14. Considering the evidence on record, we are of the opinion that the act committed by the accused would fall within exception 4 to Section 300 of IPC i.e., culpable homicide not amounting to murder, punishable under Section 304 Part-II of IPC. The accused had the knowledge that the act committed by him would result in the death, but it cannot be said that he had an intention to cause death.

15. The appellant/accused was in custody from 09.08.2013 to 07.07.2014 as an under-trial prisoner. After the judgment of conviction was passed on 21.12.2018, he was in prison till 16.08.2022. Altogether, the accused has undergone incarceration for a period of more than four and a half years.

16. The incident took place in the year 2013. 13 years have elapsed from the date of incident. The accused



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was aged about 55 years at the time of incident. It submitted that now he is aged about 68 years. He is an agriculturalist and has no criminal antecedents. Hence, the following:

ORDER

- i. The appeal is ***allowed-in-part.***
- ii. The Judgment and Order dated 21.12.2018 passed by the Court of Principal Sessions Judge at Haasan, in S.C.No.258/2013, convicting and sentencing the appellant/accused for the offence punishable under Section 302 IPC is ***set aside.***
- iii. The appellant/accused is ***convicted*** for the offence punishable under Section 304-II IPC.
- iv. He is sentenced to imprisonment for the period already undergone by him.
- v. He shall pay a fine of Rs.1,00,000/- (Rupees One Lakh only) and in default of payment of



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fine, shall undergo simple imprisonment for a period of one year.

- vi. If the fine amount is deposited/recovered, the same shall be paid as compensation to PW.3-Indramma, the wife of deceased.
- vii. The fine amount shall be deposited before the trial Court, within 30 days from the date of receipt of this order.
- viii. The copy of the judgment shall be communicated to the trial Court.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(B.PRAMOD)
JUDGE**